STATEMENT
by the Delegation of the Russian Federation
at the Third Session of the Preparatory Committee
for the 2010 Review Conference of the Parties
to the Treaty on the Non-Proliferation of Nuclear Weapons

Article X of the Treaty

New York, 4–15 May 2009
Mr. Chairman,

Conscious of its important responsibility as a Depositary of the Treaty on the Non-Proliferation of Nuclear Weapons, Russia considers withdrawal from the NPT to be a crucial issue. We believe in this regard that any decisions on the matter should neither lead to revision of Article X or opening for revision of the text of the Treaty, nor undermine a fundamental principle envisaging a sovereign right of states to withdraw from international treaties. At the same time, we agree that constructive exchange of opinions is necessary in order to elaborate agreed recommendations with regard to the procedures and effects of possible withdrawal from the Treaty.

We find that there are no reasons to believe that any of the parties will avail itself of its right to withdraw from the NPT either in the near or in the distant future. We are confident that North Korea’s statement to withdraw from the NPT is an exceptional case.

Mr. Chairman,

The effects of withdrawal from treaties are governed by the international law, in particular, Article 70 of the 1969 Vienna Convention on the Law of Treaties, which states that unless otherwise stipulated by a treaty, or unless otherwise agreed by its parties, a withdrawal from the treaty, firstly, frees the party from obligation to further implement the treaty and, secondly, does not affect rights, obligations or legal status of the party, that have arisen from the implementation of the treaty prior to withdrawal from it, that is, the withdrawing state will still bear responsibility for the violation of the treaty committed before the withdrawal from it.

There are no special provisions in the NPT on possible effects of withdrawal from it. Its Article X specifies the conditions of withdrawal from the Treaty, as well as the content of the relevant notification. Thus, the mentioned general rules of international law apply to withdrawal from the NPT, too.

No doubt, the states withdrawing from the NPT should comply with the conditions set forth in Article X of the Treaty. Nevertheless, it would be useful to develop mechanisms for the compliance with these conditions in practice. We suggest that the following understanding of the obligations contained in Article X be included in the documents of the 2010 Review Conference:

- A “notice of withdrawal” has to be given in writing, the usual format being a note verbale to the governments of all States Parties to the Treaty and the President of the Security Council;

- This note verbale has to be given three months in advance of an intended withdrawal and shall include the statement of the required extraordinary events
the country regards as having jeopardized its supreme interests; the statement
should be as detailed and specific as possible;
- The three-month period starts with the date of transmission of the note
verbale to the governments of all States Parties to the Treaty and the President of
the Security Council. Any other declarations, public statements or letters of
intention are in no way valid to shorten this period.

Mr. Chairman,

We support strengthening the role of the UN Security Council in the context of
withdrawal from the NPT. Yet, we do not believe that any withdrawal poses a threat to
peace and international security and is subject to consideration by the UN Security
Council as a matter of urgency. In accordance with Article 39 of the Charter of the
United Nations, nobody but the UN Security Council can make a decision on the matter.
It is our strong belief that one should be guided by the NPT provision on notifying the
UN Security Council.

It would be advisable that in case a notice of withdrawal is received the
Depositaries of the Treaty hold consultations with other parties concerned with regard to
assessment of effects of such withdrawal, taking in consideration the IAEA’s opinion on
the notifying party’s observance of its obligations under the Safeguards Agreement
during its participation in the Treaty.

We also strongly believe that it is necessary to convene as soon as possible the
IAEA Board of Governors in order to instruct the Agency to verify the withdrawing
state’s compliance with its obligations under the Safeguards Agreement. It should be
confirmed that in case of failure to observe them the Board of Governors shall notify the
UN Security Council in accordance with Article 12 of the IAEA Statute.

Mr. Chairman,

In general, we believe that the outcome documents of the current review process
could state that the premeditation and the preparation of the withdrawal decision with a
view to conducting a military nuclear programme constitute a violation of the objectives
of the Treaty.

We understand that in accordance with the international law, only states that are
parties to the NPT are bound by the Treaty, while a non-party or a state which ceased to
be its party is not bound or ceases to be bound by obligations arising from it. At the
same time we believe it would be advisable to include in the outcome documents of the
review process a recommendation that all nuclear material, equipment, technologies and
installations of the withdrawing state intended for peaceful purposes should be further
used for peaceful purposes and remain safeguarded.

As for materials, equipment and technologies imported before withdrawal from
the Treaty, we believe that it should also be recommended that those be returned to the
supplying state if the supplying state so requests. If no such request is made or it turns out impossible for technical reasons to return nuclear installations, equipment and material, those should remain under lifetime IAEA safeguards.

Mr. Chairman,

We reaffirm the need to exchange views on the implications of withdrawal from the NPT. To our mind, increased responsibility of states for decisions to withdraw from the Treaty under its Article X is one of the possible ways to reinforce the NPT. This could be achieved if the parties to the Treaty agreed on a range of political measures and procedures to be applied in this case.

Thank you.